

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Brian R. Chevalier

v.

Civil No. 07-cv-236-JL

State of New Hampshire

**O R D E R**

The respondent's motion (document no. 35) hits the nail on the head, and states the issue more clearly than the court's July 5, 2011 endorsed order; the court's confusion is based on the lack of clarity as to which claims the petitioner intends to pursue based on the April 12, 2011 filing (document no. 32), the petitioner's motion to stay (document no. 23) and the recently filed memorandum (document no. 34).

As the respondent points out, no motion to amend (which would require, inter alia, a demonstration of exhaustion as to any newly amended claims) has been filed. As far as the court is concerned, then, the only issue that remains before the court is Issue #2 as identified in Judge Muirhead's May 6, 2008 Order (document no. 11), which as far as the court can tell, has never been comprehensively briefed by petitioner's counsel in response to the respondent's motion for summary judgment.

There being no pending request for amendment, relief or additional briefing by the petitioner, the matter will be set down for a hearing on the respondent's motion for summary

judgment (document no. 28), restricted as it is to the only remaining issue in the case, Issue #2 as identified in Judge Muirhead's May 6, 2008 Order (document no. 11), which involves ineffective assistance based on trial defense counsel's cross examination of the victim.

**SO ORDERED.**

  
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Joseph N. Laplante  
United States District Judge

Dated: August 31, 2011

cc: Justin Paul Nadeau, Esq.  
Mark R. Ryder, Esq.  
Elizabeth C. Woodcock, Esq.  
Stephen D. Fuller, Esq.